IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

FRIDAY, THE 13TH APRIL 2007 / 23RD CHAITHRA 1929

WP(Crl.).No. 81 of 2007(S)

PETITIONER:

BINSY ROBY, D/O.V.J.JOSEPH, AGED 32 YEARS
ANNIETHOTTATHIL HOUSE,KIDANGOOR VILLAGE,
MARIDAM KARA, KADAPLAMATTOM P.O.,
KOTTAYAMA DISRICT.

BY ADV. SRI.P.JACOB VARGHESE
SRI.TOM JOSE (PADINJAREKARA)
SRI.V.MANOJ KUMAR
SRI.VARUGHESE M EASO
SMT.PRAISHEEL PRAKASAM
SRI.VIVEK VARGHESE P.J.

RESPONDENTS:
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1. THE DIRECTOR GENERAL OF POLICE, THIRUVANANTHAPURAM.

2. THE SUPERINTENDENT OF POLICE, KOTAYAM.

3. SUB INSPEPCTOR OF POLICE,
MELUKAVU,KOTTAYAM DISTRICT.

4. DEPUTY SUPERINTENET OF POLICE, PALA.

5. PENNAMMA JOSEPH, AGED 59, VARICKAMAKAL,
PAIKKATTU HOUSE, KADANADU VILLAGE,
NEELOOR KARA, MEENACHIL TALUK,KOTTAYAM DISTRIC
T.
6. JOSE JOSEPH,VARICKAMAKAL,
PAIKKATTU HOUSE, ANTHINADU P.O.,
PALA, KOTTAYAM DISTRICT.

7. THOMAS JOSEPH,VARICKAMAKAL,
PAIKKATTU HOUSE, ANTHINADU P.O.,
PALA, KOTTAYAM DISTRICT.

R1 TO R4 BY G.P.SRI.P.A.SALIM
BY ADV. SRI.DINESH MATHEW J.MURICKEN FOR R5 TO R7

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON 13/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(Crl.)NO.81/2007

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: TRUE COPY OF FIR DT. 7.3.2007 IN CRIME NO.47/07 OF MELUKAVU POLICE STATION.

EXT.P2: TRUE COPY OF ANTICIPATORY BAIL ORDER IN CRIMINAL M.NO.638/07 BEFORE THE PRINCIPAL SESSIONS COURT, KOTTAYAM DT. 20.3.2007.

EXT.P3: TRUE COPY OF PLAINT IN OS.81/07 BEFORE THE MUNSIFF'S COURT, PALA DT. 7.3.07.

EXT.P4: TRUE COPY OF COMPLAINT DT. 7.3.07 TO THE 2ND RESPONDENT, SUPERINTENDENT OF POLICE, KOTTAYAM.

EXT.P5: TRUE COPY OF PRIVATE COMPLAINT DT. 16.3.2007 BEFORE THE JUDICIAL IST CLASS MAGISTRATE COURT.

EXT.P6: TRUE COPY OF COMPLAINT DT. 2.4.07 TO 2ND RESPONDENT, SUPERINTENDENT OF POLICE, KOTTAYAM, BY THE PETITIONER.

EXT.P7: TRUE COPY OF COMPLAINT DT. 2.4.07 TO 3RD RESPONDENT SUB INSPECTOR OF POLICE, MELUJKAVU, BY THE PETITIONER

EXT.P8: TRUE COPY OF POSTAL RECEIPT DT.2.4.07 FOR THE COMPLAINT SENT TO THE IST RESPONDENT DIRECTOR GENERAL OF POLICE, KOTTAYAM.

EXT.P9: TRUE COPY OF POSTAL RECEIPT DT. 2.4.07, FOR THE COMPLAINT SENT TO THE 2ND RESPONDENT, SUPERINTENDENT OF POLICE, KOTTAYAM.

EXT.P10: TRUE COPY OF POSTAL RECEIPT DT. 2.4.07, FOR THE COMPLAINT SENT TO THE SUB INSPECTOR OF POLICE, MELUKAVU.

// TRUE COPY //

TKS

J.B.KOSHY & T.R.RAMACHANDRAN NAIR, JJ.

W.P.(Crl.)No.81 OF 2007

Dated 13th April, 2007

JUDGMENT

Koshy,J.

This is a habeas corpus petition filed by a daughter stating that her father is forcibly admitted in the mental hospital by her mother and two brothers. We have directed that the alleged detenu to be produced. The alleged detenu was present and he stated that he has no mental illness. Already a petition under Section 498A IPC was filed by the wife, but, in that petition also there was no allegation of mental illness. It is also submitted that already sufficient property was given to the sons. Even though sons are aged more than 30, they are not married. It is further submitted that still the father has five acres of land and a house at Pala near to the two acres of rubber plantation of his wife and there is also a house owned by him at Neeloor.

2. Counsel for respondents 5 to 7 submitted that actually the petition under section 498A was not filed by the fifth respondent. If that be so, it is for the fifth respondent to approach the Magistrate's Court for withdrawing the case. It is further submitted that father

is threatening the fifth respondent wife that he will commit suicide and trying to assault her. It is also stated that he has a loaded gun.

2. We have talked to the alleged detenu and he appears to be normal and answered all the questions very logically. In the above circumstances, the alleged detenu can stay at Neeloor and respondents 5 to 7 mother and the sons can stay at Pala at the alleged detenu's house. There will not be any threatening to fifth respondent by the alleged detenu if they are living apart. The matter can be compromised through mediators. The family disputes also can be resolved through Family Court. So, we direct that the alleged detenu should be allowed to stay at Neeloor with a condition that petitioner and her husband should look after him. Respondents 5 to 7 shall not go to Neeloor and disturb him. Petitioner and alleged detenu shall not go to Pala to cause any threat to the fifth respondent and her sons.

This habeas corpus petition is disposed of with the above direction. This judgment will not prejudice the parties to approach Family Court or criminal court for

settling any dispute and if such disputes are raised, it should be resolved untrammelled by the observations in this judgment.

J.B.KOSHY
JUDGE

T.R.RAMACHANDRAN NAIR
JUDGE

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